

Appendix A

**Eligible Activities
Excerpt from Title I of
the HCD Act**

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Sec. 5305.* Activities eligible for assistance [* Section 105 of the Act]

Features

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From the U.S. Code
[Laws in effect as of January 20, 1999]
[CITE: 42USC5305]

a. Enumeration of eligible activities

Activities assisted under this chapter may include only--

1. the acquisition of real property (including air rights, water rights, and other interests therein) which is
 - A. blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;
 - B. appropriate for rehabilitation or conservation activities;
2. appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development;
3. to be used for the provision of public works, facilities, and improvements eligible for assistance under this chapter; or
4. to be used for other public purposes;

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- b. the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements;
- c. code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public or private improvements or services to be provided, may be expected to arrest the decline of the area;
- d. clearance, demolition, removal, reconstruction, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation, of privately owned properties, and including the renovation of closed school buildings);
- e. special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;
- f. payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by activities under this chapter;
- g. disposition (through sale, lease, donation, or otherwise) of any real property acquired pursuant to this chapter or its retention for public purposes;
- h. provision of public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs, if such services have not been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) during any part of the twelve-month period immediately preceding the date of submission of the

Sec. 5315 Interstate agreements or compacts; purposes

Sec. 5316 Transition provisions

Sec. 5317 Liquidation of superseded or inactive programs

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Sec. 5320 Historic preservation requirements

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Section 5318a (John Heinz Neighborhood Development Program) is not included

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statement with respect to which funds are to be made available under this chapter, and which are to be used for such services, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government, except that not more than 15 per centum of the amount of any assistance to a unit of general local government (or in the case of nonentitled communities not more than 15 per centum statewide) under this chapter including program income may be used for activities under this paragraph unless such unit of general local government used more than 15 percent of the assistance received under this chapter for fiscal year 1982 or fiscal year 1983 for such activities (excluding any assistance received pursuant to Public Law 98-8), in which case such unit of general local government may use not more than the percentage or amount of such assistance used for such activities for such fiscal year, whichever method of calculation yields the higher amount, except that of any amount of assistance under this chapter (including program income) in each of fiscal years 1993 through 2001 to the City of Los Angeles and County of Los Angeles, each such unit of general government may use not more than 25 percent in each such fiscal year for activities under this paragraph, and except that of any amount of assistance under this chapter (including program income) in each of the fiscal years 1999, 2000, and 2001, to the City of Miami, such city may use not more than 25 percent in each fiscal year for activities under this paragraph;

Section 218 of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105-276, approved October 21, 1998 amended this paragraph by striking "1998" and inserting "1999", as shown, to extend the public services cap exception applicable to the City and County of Los Angeles through the end of fiscal year 1999. However, section 596 of such Act also amended this paragraph, but by striking "1998" and inserting "2000". The result of including both amendments in the same Act is unclear.

- i. payment of the non-Federal share required in connection with a Federal grant-in-aid program

undertaken as part of activities assisted under this chapter;

- j. payment of the cost of completing a project funded under title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.];
- k. relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate;
- l. activities necessary
 - A. to develop a comprehensive community development plan, and
 - B. to develop a policy-planning- management capacity so that the recipient of assistance under this chapter may more rationally and effectively
 - i. determine its needs,
 - ii. set long-term goals and short-term objectives,
 - iii. devise programs and activities to meet these goals and objectives,
 - iv. evaluate the progress of such programs in accomplishing these goals and objectives, and
 - v. carry out management, coordination, and monitoring of activities necessary for effective planning implementation;
- m. payment of reasonable administrative costs related to establishing and administering federally approved enterprise zones and payment of reasonable administrative costs and carrying charges related to
 - A. administering the **HOME** program under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.] ; and
 - B. the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and

housing activities are to be concentrated with respect to the planning and execution of such activities, and including the carrying out of activities as described in section 461(e) of title 40 on August 12, 1981;

- n. provision of assistance including loans (both interim and long-term) and grants for activities which are carried out by public or private nonprofit entities, including
 - A. acquisition of real property;
 - B. acquisition, construction, reconstruction, rehabilitation, or installation of
 - i. public facilities (except for buildings for the general conduct of government), site improvements, and utilities, and
 - ii. commercial or industrial buildings or structures and other commercial or industrial real property improvements; and
 - C. planning;
- o. assistance to neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations serving the development needs of the communities in nonentitlement areas, or entities organized under section 681(d) of title 15 to carry out a neighborhood revitalization or community economic development or energy conservation project in furtherance of the objectives of section **5301(c)** of this title, and assistance to neighborhood-based nonprofit organizations, or other private or public nonprofit organizations, for the purpose of assisting, as part of neighborhood revitalization or other community development, the development of shared housing opportunities (other than by construction of new facilities) in which elderly families (as defined in section 1437a(b)(3) of this title) benefit as a result of living in a dwelling in which the facilities are shared with others in a manner that effectively and efficiently meets the housing needs of the residents and thereby reduces

their cost of housing;

p. activities necessary to the development of energy use strategies related to a recipient's development goals, to assure that those goals are achieved with maximum energy efficiency, including items such as--

A. an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, waste management, district heating and cooling, land use planning and zoning, and traffic control, parking, and public transportation functions; and

B. a statement of the actions the recipient will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities;

q. provision of assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project (that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods) that--

A. creates or retains jobs for low- and moderate-income persons;

B. prevents or eliminates slums and blight;

C. meets urgent needs;

D. creates or retains businesses owned by community residents;

- E. assists businesses that provide goods or services needed by, and affordable to, low- and moderate-income residents; or
- F. provides technical assistance to promote any of the activities under subparagraphs (A) through (E);
- r. the rehabilitation or development of housing assisted under section 1437o of this title;
- s. provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities, which assistance shall not be considered a planning cost as defined in paragraph (12) or administrative cost as defined in paragraph (13);
- t. housing services, such as housing counseling in connection with tenant-based rental assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.] , energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in housing activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act;
- u. provision of assistance by recipients under this chapter to institutions of higher education having a demonstrated capacity to carry out eligible activities under this subsection for carrying out such activities;
- v. provision of assistance to public and private organizations, agencies, and other entities (including nonprofit and for-profit entities) to enable such entities to facilitate economic development by--
 - A. providing credit (including providing direct loans and loan guarantees, establishing revolving loan

funds, and facilitating peer lending programs) for the establishment, stabilization, and expansion of microenterprises;

- B. providing technical assistance, advice, and business support services (including assistance, advice, and support relating to developing business plans, securing funding, conducting marketing, and otherwise engaging in microenterprise activities) to owners of microenterprises and persons developing microenterprises; and
- C. providing general support (such as peer support programs and counseling) to owners of microenterprises and persons developing microenterprises;
- w. activities necessary to make essential repairs and to pay operating expenses necessary to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such housing in primarily low- and moderate-income neighborhoods;
- x. provision of direct assistance to facilitate and expand homeownership among persons of low and moderate income (except that such assistance shall not be considered a public service for purposes of paragraph (8)) by using such assistance to--
 - A. subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers;
 - B. finance the acquisition by low- and moderate-income homebuyers of housing that is occupied by the homebuyers;
 - C. acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that amounts received under this chapter may not be used under this

subparagraph to directly guarantee such mortgage financing and grantees under this chapter may not directly provide such guarantees);

- D. provide up to 50 percent of any downpayment required from low- or moderate-income homebuyer; or
- E. pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low- or moderate-income homebuyer; an

y. lead-based paint hazard evaluation and reduction, as defined in section 4851b of this title.

• **Reimbursement of Secretary for administrative services connected with rehabilitation of properties**

Upon the request of the recipient of assistance under this chapter, the Secretary may agree to perform administrative services on a reimbursable basis on behalf of such recipient in connection with loans or grants for the rehabilitation of properties as authorized under subsection (a)(4) of this section.

• **Activities benefiting persons of low and moderate income**

1. In any case in which an assisted activity described in paragraph (14) or (17) of subsection (a) of this section is identified as principally benefiting persons of low and moderate income, such activity shall--
 - A. be carried out in a neighborhood consisting predominately of persons of low and moderate income and provide services for such persons; or
 - B. involve facilities designed for use predominately by persons of low and moderate income; or

C. involve employment of persons, a majority of whom are persons of low and moderate income.

2.

A. In any case in which an assisted activity described in subsection (a) of this section is designed to serve an area generally and is clearly designed to meet identified needs of persons of low and moderate income in such area, such activity shall be considered to principally benefit persons of low and moderate income if

i. not less than 51 percent of the residents of such area are persons of low and moderate income;

ii. in any metropolitan city or urban county, the area served by such activity is within the highest quartile of all areas within the jurisdiction of such city or county in terms of the degree of concentration of persons of low and moderate income; or

iii. the assistance for such activity is limited to paying assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement.

B. The requirements of subparagraph (A) do not prevent the use of assistance under this chapter for the development, establishment, and operation for not to exceed 2 years after its establishment of a uniform emergency telephone number system if the Secretary determines that--

i. such system will contribute substantially to the safety of the residents of the area served by such system;

ii. not less than 51 percent of the use of the system will be by persons of low and moderate income; and

- iii. other Federal funds received by the grantee are not available for the development, establishment, and operation of such system due to the insufficiency of the amount of such funds, the restrictions on the use of such funds, or the prior commitment of such funds for other purposes by the grantee

The percentage of the cost of the development, establishment, and operation of such a system that may be paid from assistance under this chapter and that is considered to benefit low and moderate income persons is the percentage of the population to be served that is made up of persons of low and moderate income.

- 3. Any assisted activity under this chapter that involves the acquisition or rehabilitation of property to provide housing shall be considered to benefit persons of low and moderate income only to the extent such housing will, upon completion, be occupied by such persons.
- 4. For the purposes of subsection (c)(1)(C) of this section-
 - A. if an employee resides in, or the assisted activity through which he or she is employed, is located in a census tract that meets the Federal enterprise zone eligibility criteria, the employee shall be presumed to be a person of low- or moderate-income; or
 - B. if an employee resides in a census tract where not less than 70 percent of the residents have incomes at or below 80 percent of the area median, the employee shall be presumed to be a person of low or moderate income.

• Training program

The Secretary shall implement, using funds recaptured pursuant to section **5318(o)** of this title, an on-going education and training program for officers and employees of the Department, especially officers and employees of

area and other field offices of the Department, who are responsible for monitoring and administering activities pursuant to paragraphs (14), (15), and (17) of subsection (a) of this section for the purpose of ensuring that

- A. such personnel possess a thorough understanding of such activities; and
- B. regulations and guidelines are implemented in a consistent fashion.

• **Guidelines for evaluating and selecting economic development projects**

1. Establishment

The Secretary shall establish, by regulation, guidelines to assist grant recipients under this chapter to evaluate and select activities described in subsection (a)(14), (15), and (17) of this section for assistance with grant amounts. The Secretary shall not base a determination of eligibility of the use of funds under this chapter for such assistance solely on the basis that the recipient fails to achieve one or more of the guidelines' objectives as stated in paragraph (2).

2. Project costs and financial requirements

The guidelines established under this subsection shall include the following objectives:

- A. The project costs of such activities are reasonable.
- B. To the extent practicable, reasonable financial support has been committed for such activities from non-Federal sources prior to disbursement of Federal funds.
- C. To the extent practicable, any grant amounts to be provided for such activities do not substantially reduce the amount of non-Federal financial support for the activity.
- D. Such activities are financially feasible.

- E. To the extent practicable, such activities provide not more than a reasonable return on investment to the owner.
- F. To the extent practicable, grant amounts used for the costs of such activities are disbursed on a pro rata basis with amounts from other sources.

3. Public benefit

The guidelines established under this subsection shall provide that the public benefit provided by the activity is appropriate relative to the amount of assistance provided with grant amounts under this chapter.

• Assistance to for-profit entities

In any case in which an activity described in paragraph (17) of subsection (a) of this section is provided assistance such assistance shall not be limited to activities for which no other forms of assistance are available or could not be accomplished but for that assistance.

• Microenterprise and small business program requirements

In developing program requirements and providing assistance pursuant to paragraph (17) of subsection (a) of this section to a microenterprise or small business, the Secretary shall--

1. take into account the special needs and limitations arising from the size of the entity; and
2. not consider training, technical assistance, or other support services costs provided to small businesses or microenterprises or to grantees and subgrantees to develop the capacity to provide such assistance, as a planning cost pursuant to subsection (a)(12) of this section or an administrative cost pursuant to subsection (a)(13) of this section.

• Prohibition on use of assistance for employment relocation activities

Notwithstanding any other provision of law, no amount from a grant under section **5306** made in fiscal year 1999 or any succeeding fiscal year may be used to assist directly in the relocation of any industrial or commercial plant, facility, or operation, from 1 area to another area, if the relocation is likely to result in a significant loss of employment in the labor market area from which the relocation occurs.

(Pub. L. 93-383, title I, Sec. 105, Aug. 22, 1974, 88 Stat. 641;
 Pub. L. 94-375, Sec. 15(b), Aug. 3, 1976, 90 Stat. 1076;
 Pub. L. 95-128, title I, Sec. 105, Oct. 12, 1977, 91 Stat. 1116;
 Pub. L. 95-557, title I, Sec. 103(e), Oct. 31, 1978, 92 Stat. 2084;
 Pub. L. 96-399, title I, Sec. 104(c)-(e), Oct. 8, 1980, 94 Stat. 1616-1618;
 Pub. L. 97-35, title III, Secs. 303(a), 309(e)-(g), Aug. 13, 1981, 95 Stat. 387, 396;
 Pub. L. 98-181, title I, Sec. 105(a), (b)(1), (c)-(e), title III, Sec. 302(a), Nov. 30, 1983, 97 Stat. 1163, 1164, 1206;
 Pub. L. 98-479, title I, Sec. 101(a)(8), (9)(A), Oct. 17, 1984, 98 Stat. 2219;
 Pub. L. 100-242, title V, Secs. 504, 510, 511, Feb. 5, 1988, 101 Stat. 1925, 1929;
 Pub. L. 100-404, title I, Aug. 19, 1988, 102 Stat. 1019;
 Pub. L. 101-625, title IX, Secs. 907, 908, Nov. 28, 1990, 104 Stat. 4387, 4389;
 Pub. L. 102-550, title VIII, Secs. 805, 806(a), (b), (c), 807(a), (b)(3), (c)(1), (d)-(f), 809, title X, Sec. 1012(f), Oct. 28, 1992, 106 Stat. 3846, 3847, 3849, 3850, 3905;
 Pub. L. 103-195, Sec. 2(a), Dec. 14, 1993, 107 Stat. 2297;
 Pub. L. 103-233, title II, Sec. 207, Apr. 11, 1994, 108 Stat. 365;
 Pub. L. 104-134, title I, Sec. 101(e) (title II, Sec. 225), Apr. 26, 1996, 110 Stat. 1321-257, 1321-291;
 renumbered title I, Pub. L. 104-140, Sec. 1(a), May 2, 1996, 110 Stat. 1327;
 Pub. L. 104-204, title II, Sec. 220, Sept. 26, 1996, 110 Stat. 2906;
 Pub. L. 105-276, title II, Sec. 218, 232, title V, Sec. 588, 596(a), Oct. 21, 1998, 112 Stat. 2487, 2492, 2651, 2659.)
 Pub. L. 106-377, Sec. (1)(a)(1), Oct. 27, 2000, 114 Stat. 1441